

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

PHILLIP KERCH,

Plaintiff,

v.

**CORRECTIONAL OFFICER
WATKINS,**

Defendant.

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No. 5:19-cv-00034-MTT-CHW

ORDER OF DISMISSAL

Pro se Plaintiff Phillip Kerch, an inmate in Central State Prison in Macon, Georgia, filed a handwritten document, which was docketed in this Court as a civil rights complaint pursuant to 42 U.S.C. § 1983. Compl., ECF No. 1. He did not, however, use the required § 1983 complaint form. *See id.* Moreover, although Plaintiff submitted a motion for leave to proceed *in forma pauperis*, he did not file that motion on the proper form, nor did he attach a properly certified copy of his trust fund account statement. *See* Mot. for Leave to Proceed *In Forma Pauperis*, ECF No. 2.

As a result, Plaintiff was ordered to submit a properly completed 42 U.S.C. § 1983 complaint form and a new motion for leave to proceed *in forma pauperis*, including an affidavit in support of his motion and a certified account statement. Order, March 29, 2019, ECF No. 5. Plaintiff was given twenty-one days to comply and was cautioned that his failure to do so could result in the dismissal of this action. Thereafter, Plaintiff did not comply with the order to submit a new complaint and motion to proceed *in forma pauperis*

on the proper forms. Accordingly, Plaintiff was ordered to show cause why this case should not be dismissed for failure to comply with the Court's previous order. Order to Show Cause, ECF No. 6. Plaintiff was again given twenty-one days to respond and was cautioned that his failure to do so would result in the dismissal of this action. *Id.*

To date, Plaintiff has not responded to the show cause order. Thus, because Plaintiff has failed to respond to the Court's orders or otherwise prosecute his case, it is hereby **ORDERED** that Plaintiff's Complaint be **DISMISSED WITHOUT PREJUDICE**. See Fed. R. Civ. P. 41(b); *Brown v. Tallahassee Police Dep't*, 205 F. App'x 802, 802 (11th Cir. 2006) (per curiam) ("The court may dismiss an action *sua sponte* under Rule 41(b) for failure to prosecute or failure to obey a court order.") (citing Fed. R. Civ. P. 41(b) and *Lopez v. Aransas Cty. Indep. Sch. Dist.*, 570 F.2d 541, 544 (5th Cir. 1978)).

SO ORDERED, this 26th day of June, 2019.

S/Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT